


# **APPEALING AN UNEMPLOYMENT BENEFIT OR TAX (RE)DETERMINATION**





# UIA issues “Determination”

## - Benefits Issues -

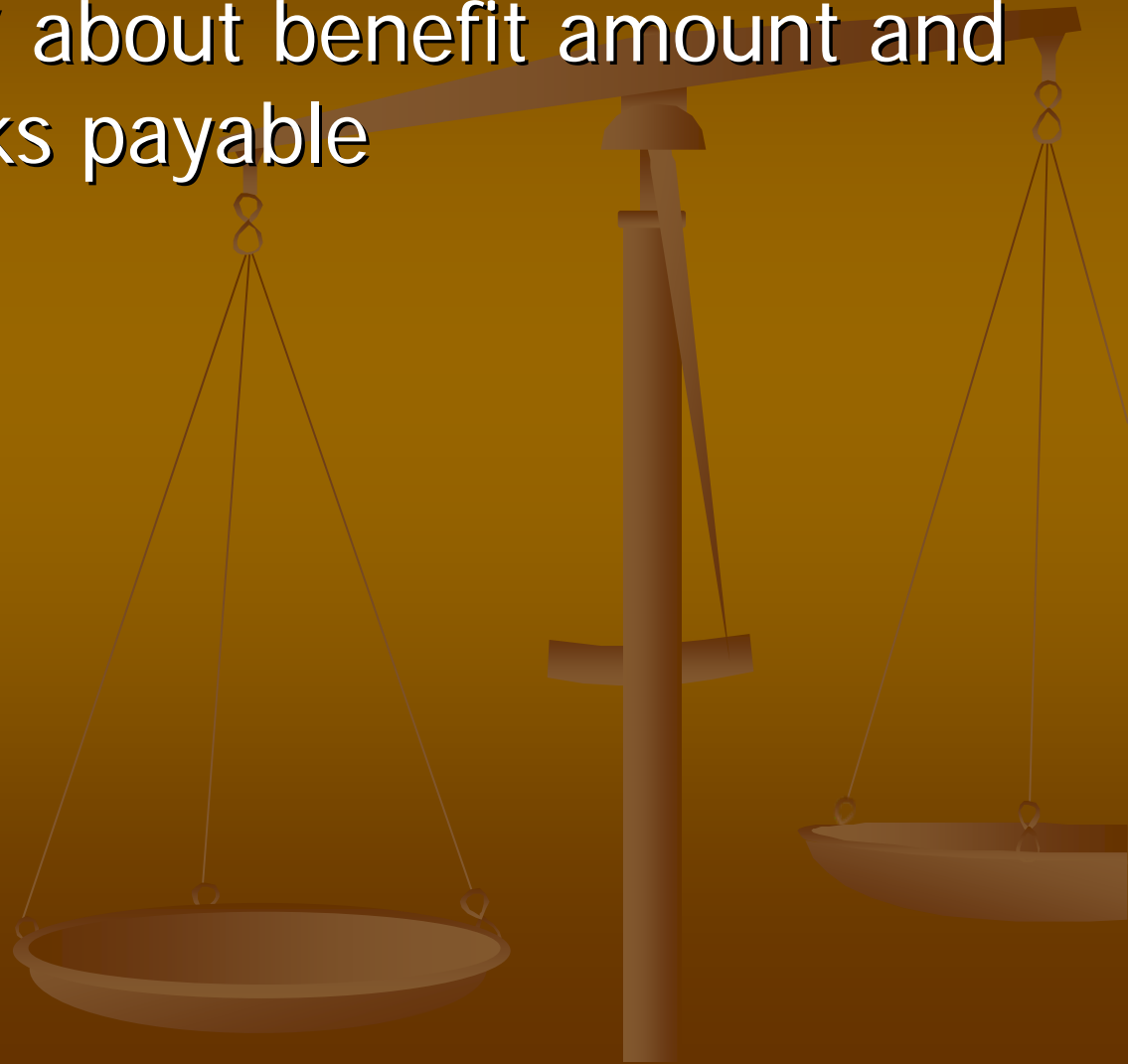




# UIA issues “Determination”

## - Benefits Issues -

- “Determination” about benefit amount and number of weeks payable

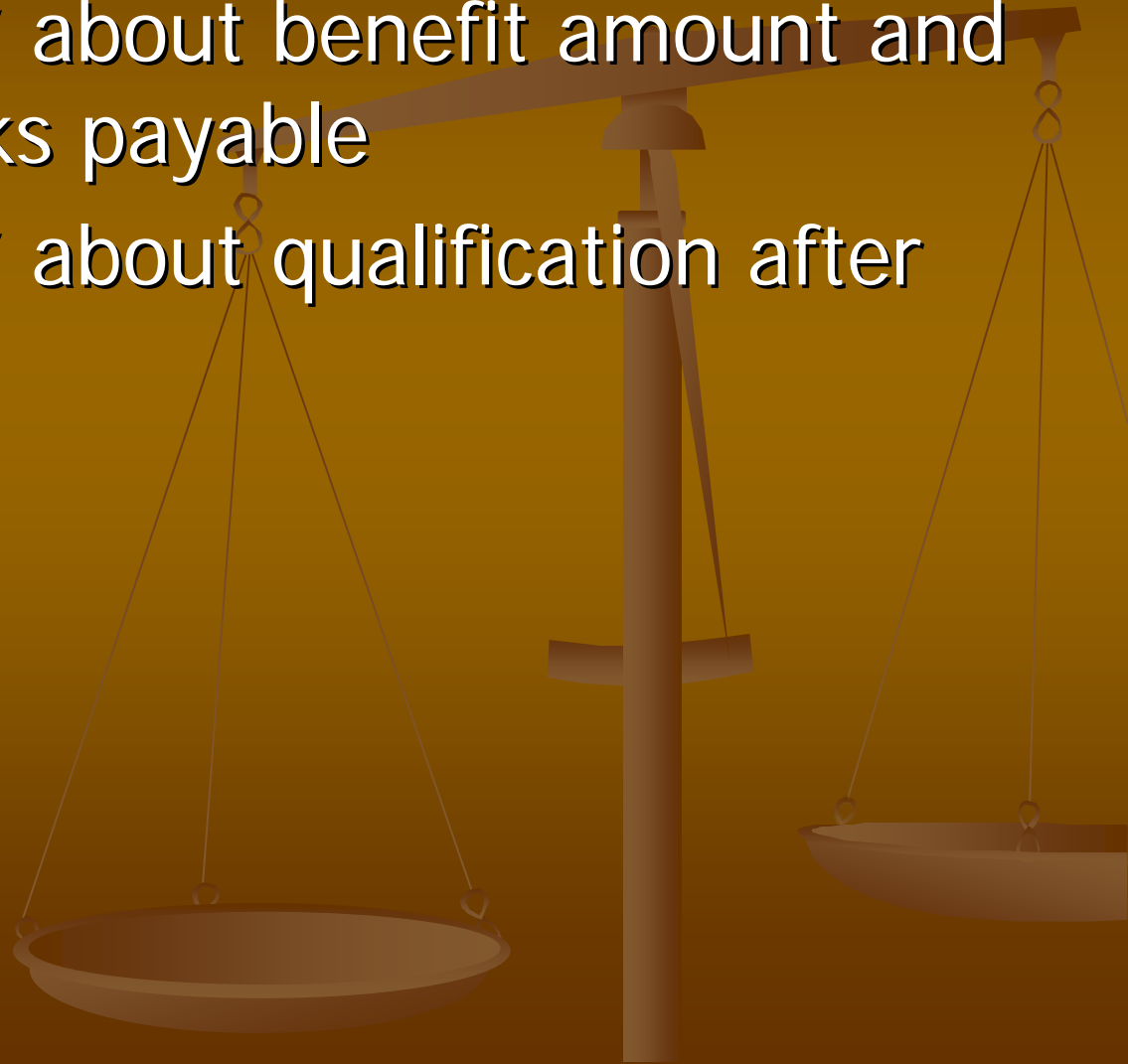




# UIA issues “Determination”

## - Benefits Issues -

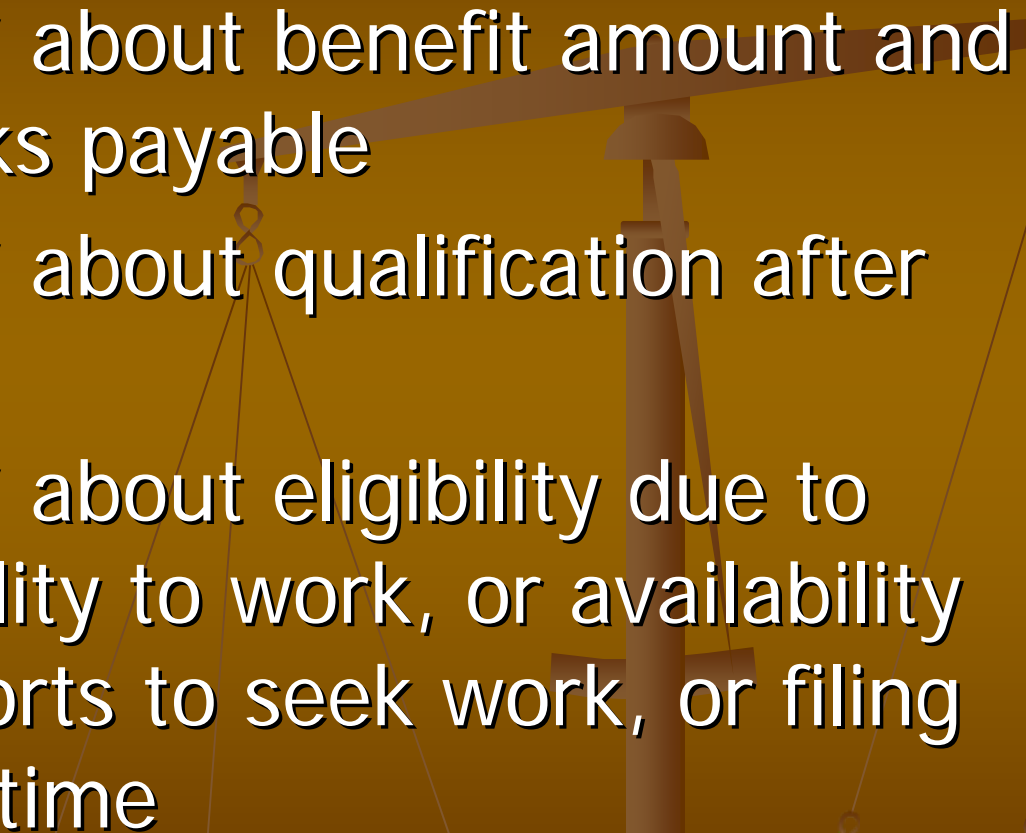
- “Determination” about benefit amount and number of weeks payable
- “Determination” about qualification after quit or firing





# UIA issues “Determination”

## - Benefits Issues -

- 
- “Determination” about benefit amount and number of weeks payable
  - “Determination” about qualification after quit or firing
  - “Determination” about eligibility due to earnings, or ability to work, or availability for work, or efforts to seek work, or filing of the claim on time



# UIA issues “Determination”

## - Tax Issues -

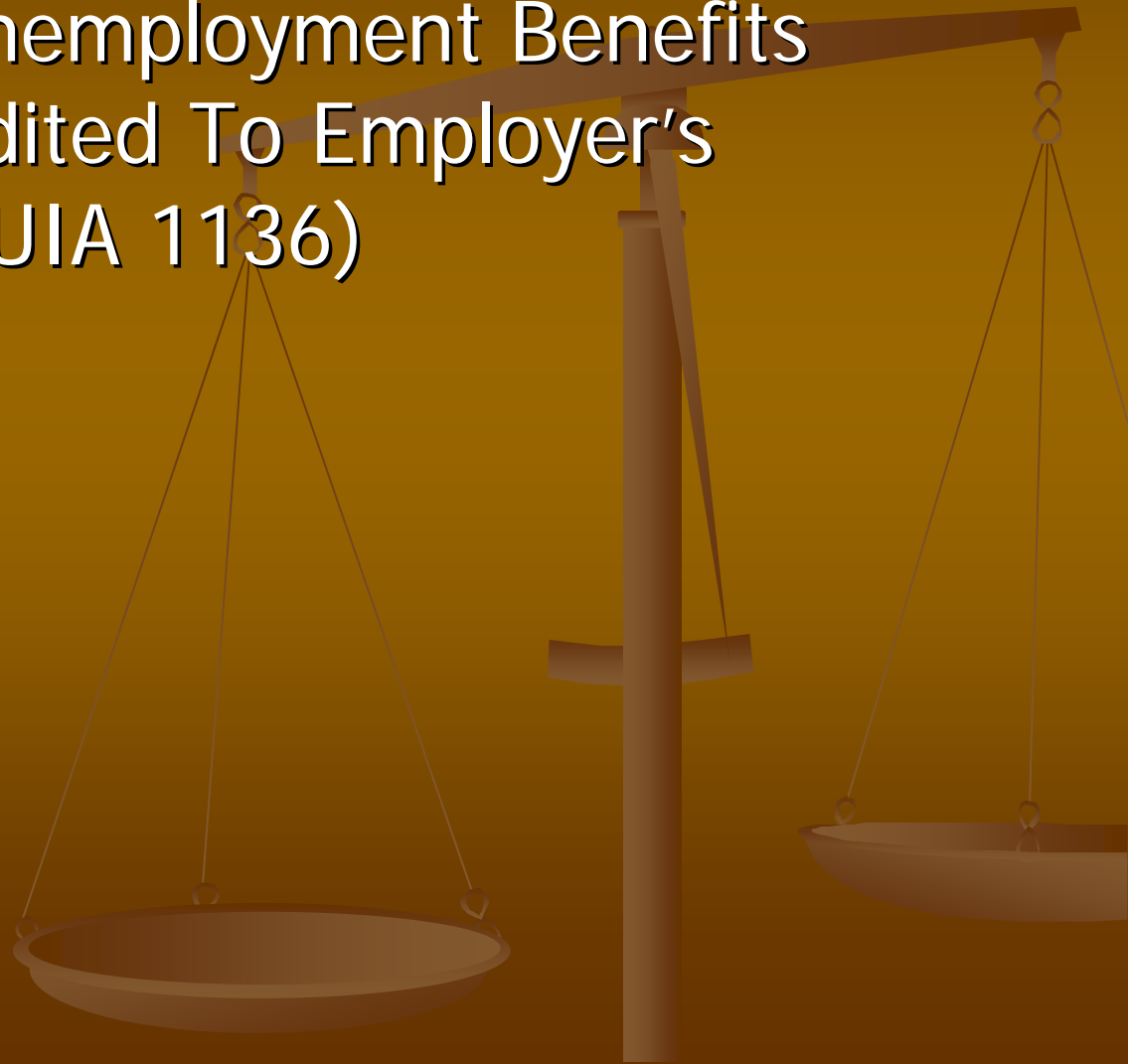




# UIA issues “Determination”

## - Tax Issues -

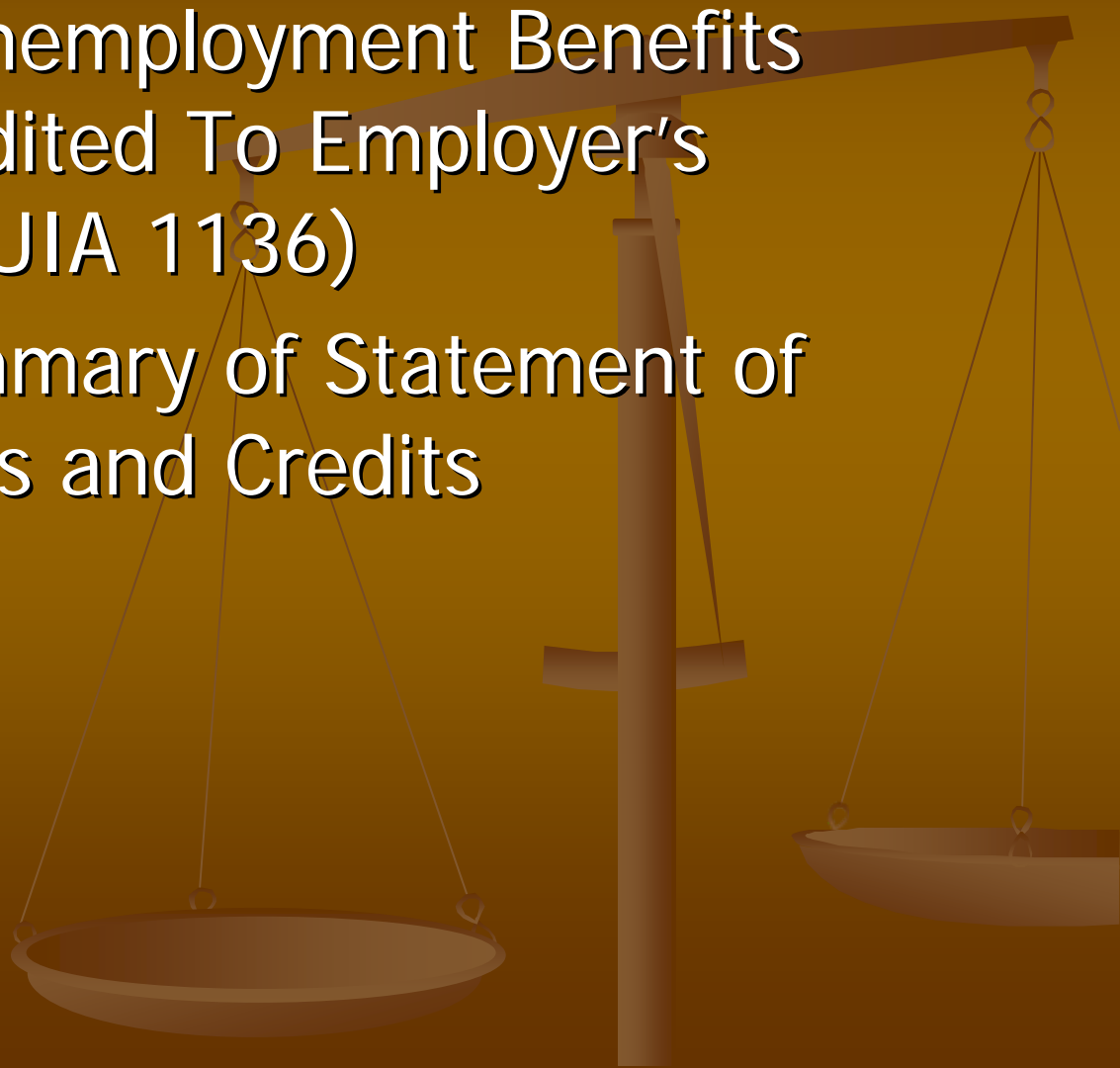
- Statement of Unemployment Benefits Charged or Credited To Employer's Account (Form UIA 1136)





# UIA issues “Determination”

## - Tax Issues -

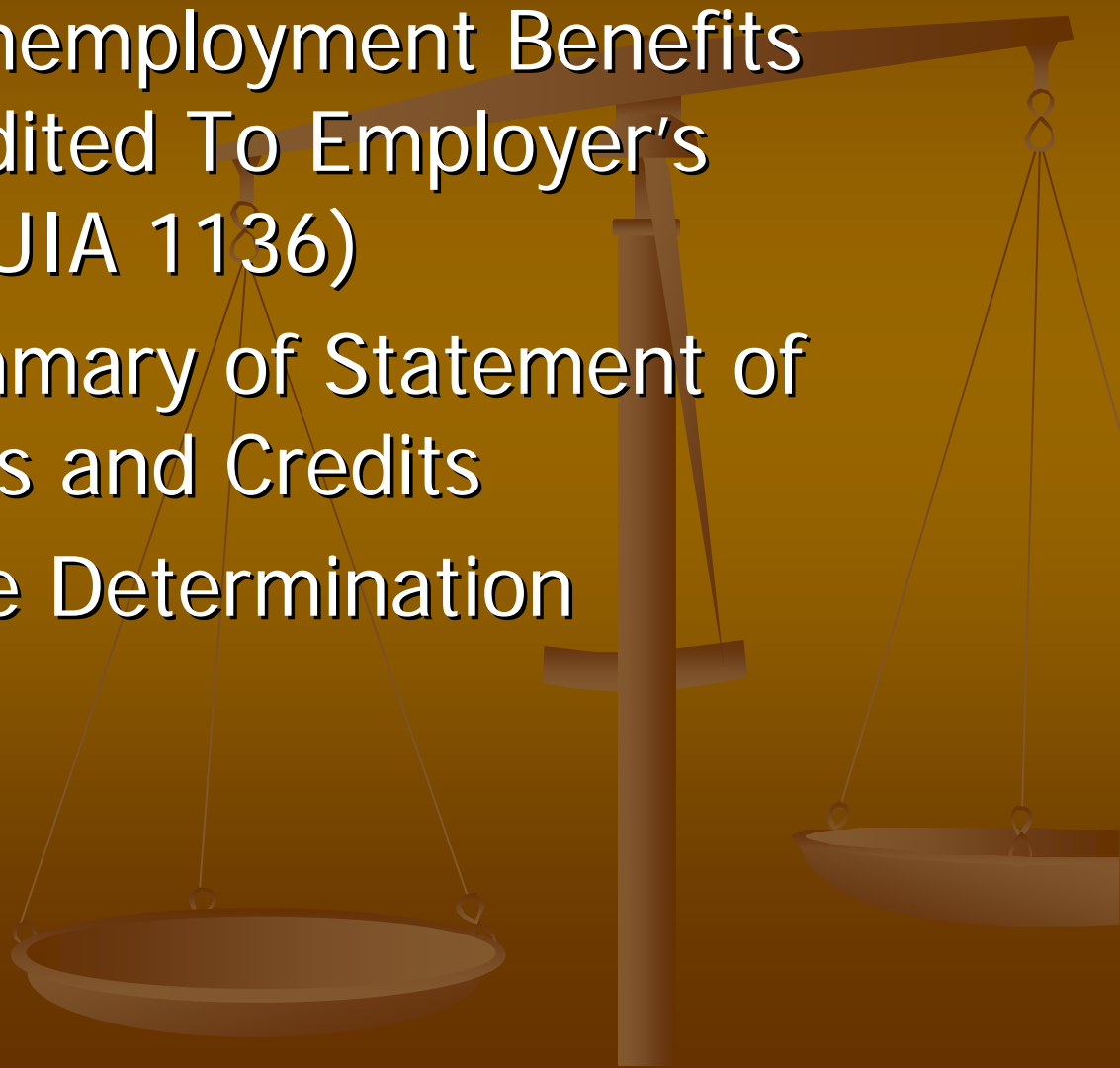
- Statement of Unemployment Benefits Charged or Credited To Employer's Account (Form UIA 1136)
  - (Quarterly) Summary of Statement of Benefits Charges and Credits
- 





# UIA issues “Determination”

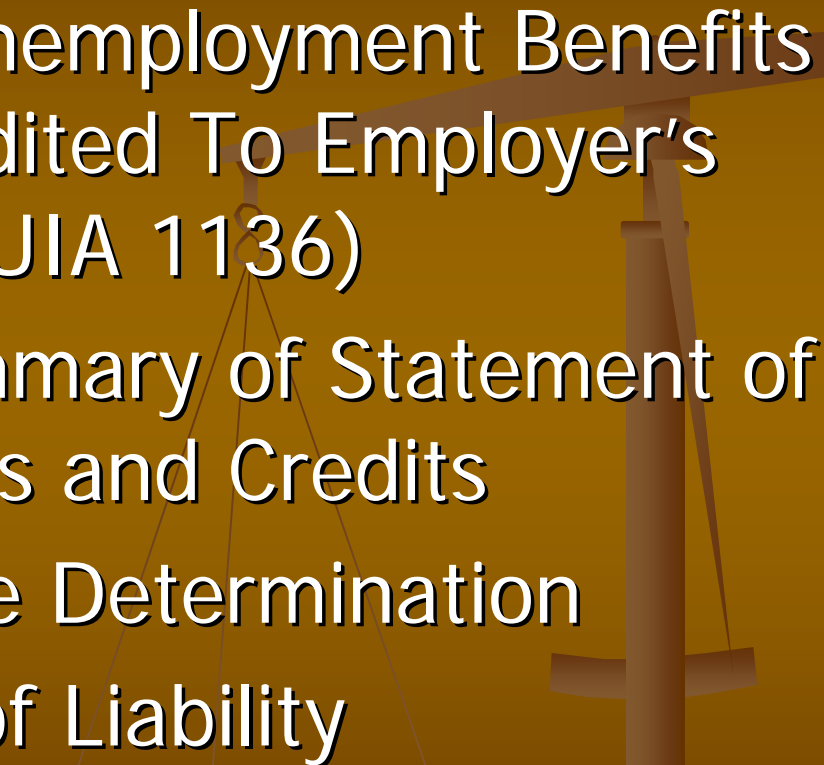
## - Tax Issues -

- Statement of Unemployment Benefits Charged or Credited To Employer's Account (Form UIA 1136)
  - (Quarterly) Summary of Statement of Benefits Charges and Credits
  - Annual Tax Rate Determination
- 



# UIA issues “Determination”

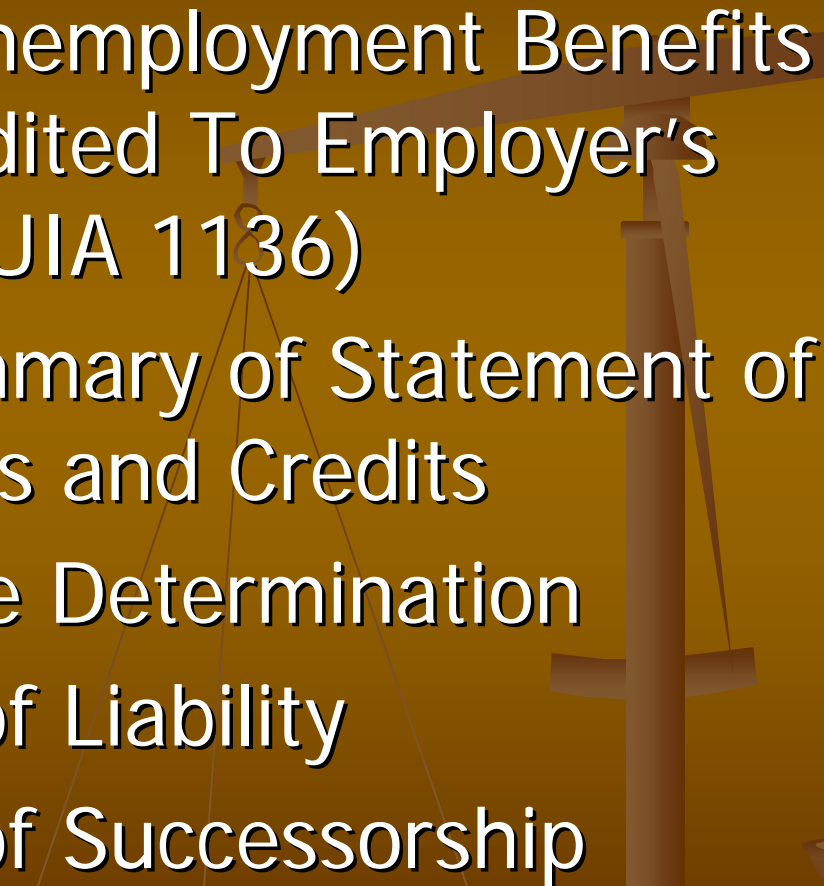
## - Tax Issues -

- Statement of Unemployment Benefits Charged or Credited To Employer's Account (Form UIA 1136)
  - (Quarterly) Summary of Statement of Benefits Charges and Credits
  - Annual Tax Rate Determination
  - Determination of Liability
- 



# UIA issues “Determination”

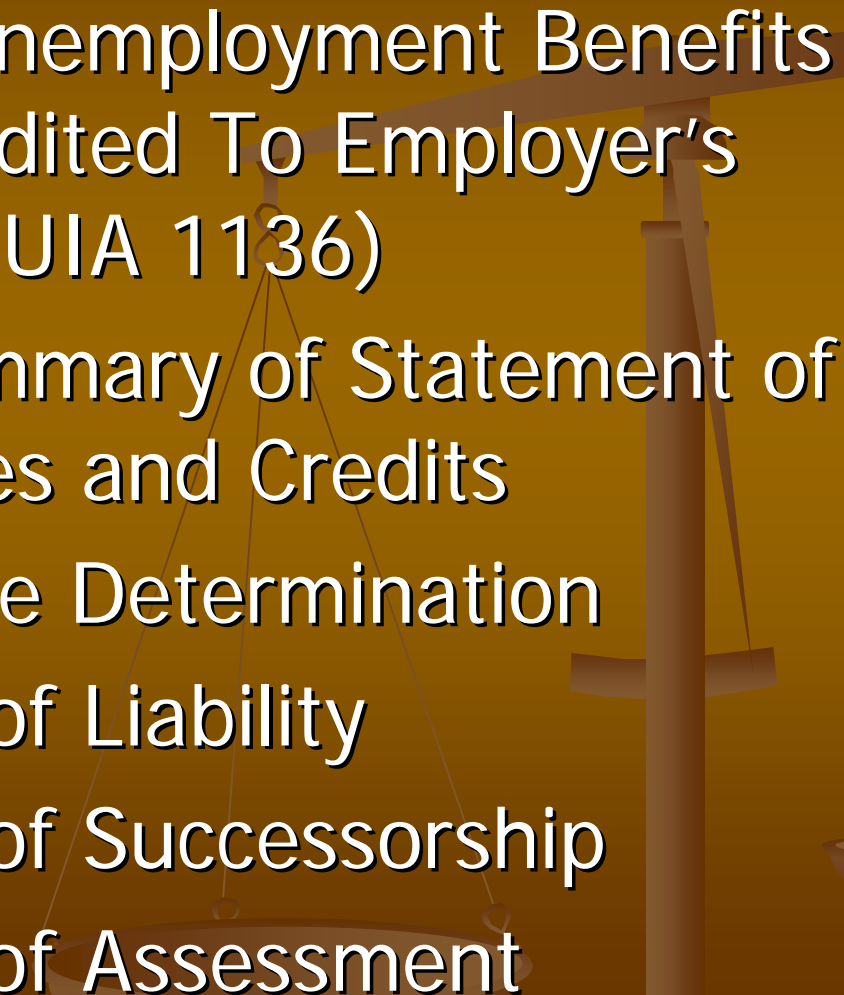
## - Tax Issues -

- Statement of Unemployment Benefits Charged or Credited To Employer's Account (Form UIA 1136)
  - (Quarterly) Summary of Statement of Benefits Charges and Credits
  - Annual Tax Rate Determination
  - Determination of Liability
  - Determination of Successorship
- 



# UIA issues “Determination”

## - Tax Issues -

- Statement of Unemployment Benefits Charged or Credited To Employer's Account (Form UIA 1136)
  - (Quarterly) Summary of Statement of Benefits Charges and Credits
  - Annual Tax Rate Determination
  - Determination of Liability
  - Determination of Successorship
  - Determination of Assessment
- 



# Protesting a Determination

- “Protest” of Determination (requesting Redetermination) must be in writing and **RECEIVED** by UIA within 30 days of mailing of “Determination”
- “Protest” should be specific about what the party disagrees with, and why



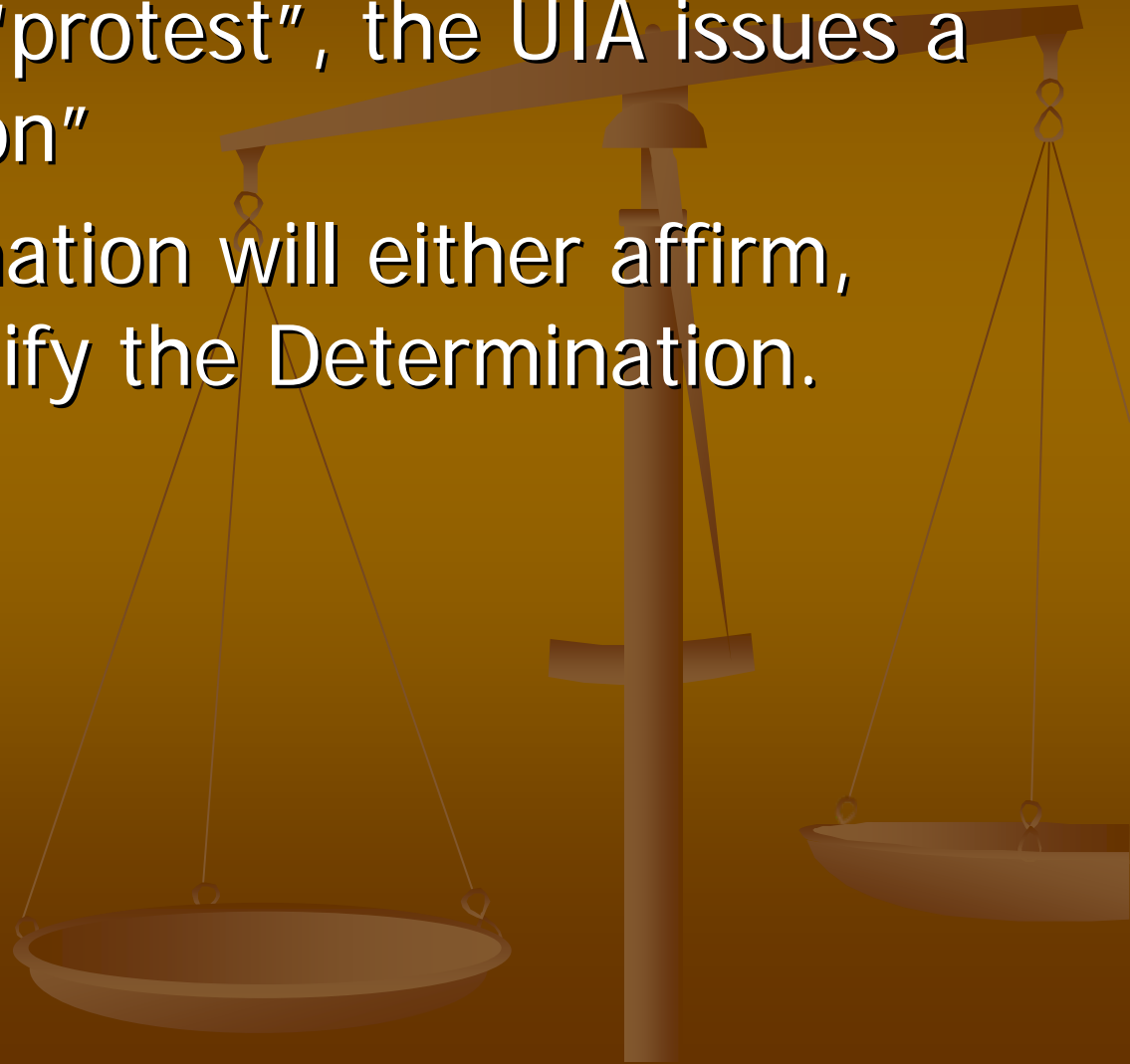
# Protesting a Determination

- If the employer is not the one the claimant recently worked for, the claimant may already have requalified for benefits, so the employer can no longer “protest” the payment of benefits. The employer can still protest the charging of their account and can request a “Redetermination of Charges”
- The employer must explain in the protest why the claimant would have been disqualified from leaving employment if the claimant had not already requalified.



# UIA issues Redetermination

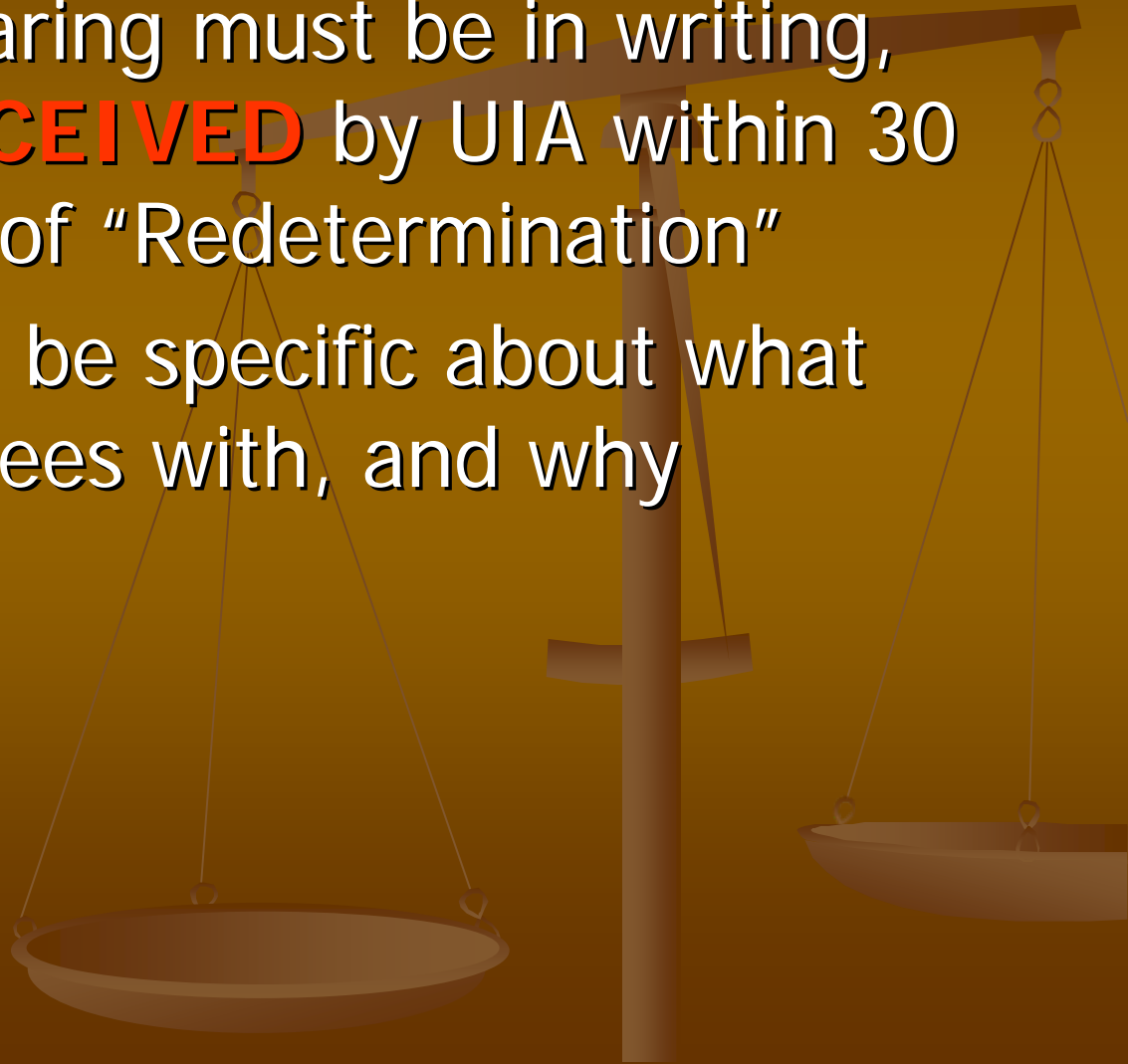
- In response to “protest”, the UIA issues a “Redetermination”
- The Redetermination will either affirm, reverse, or modify the Determination.





# Appealing a Redetermination

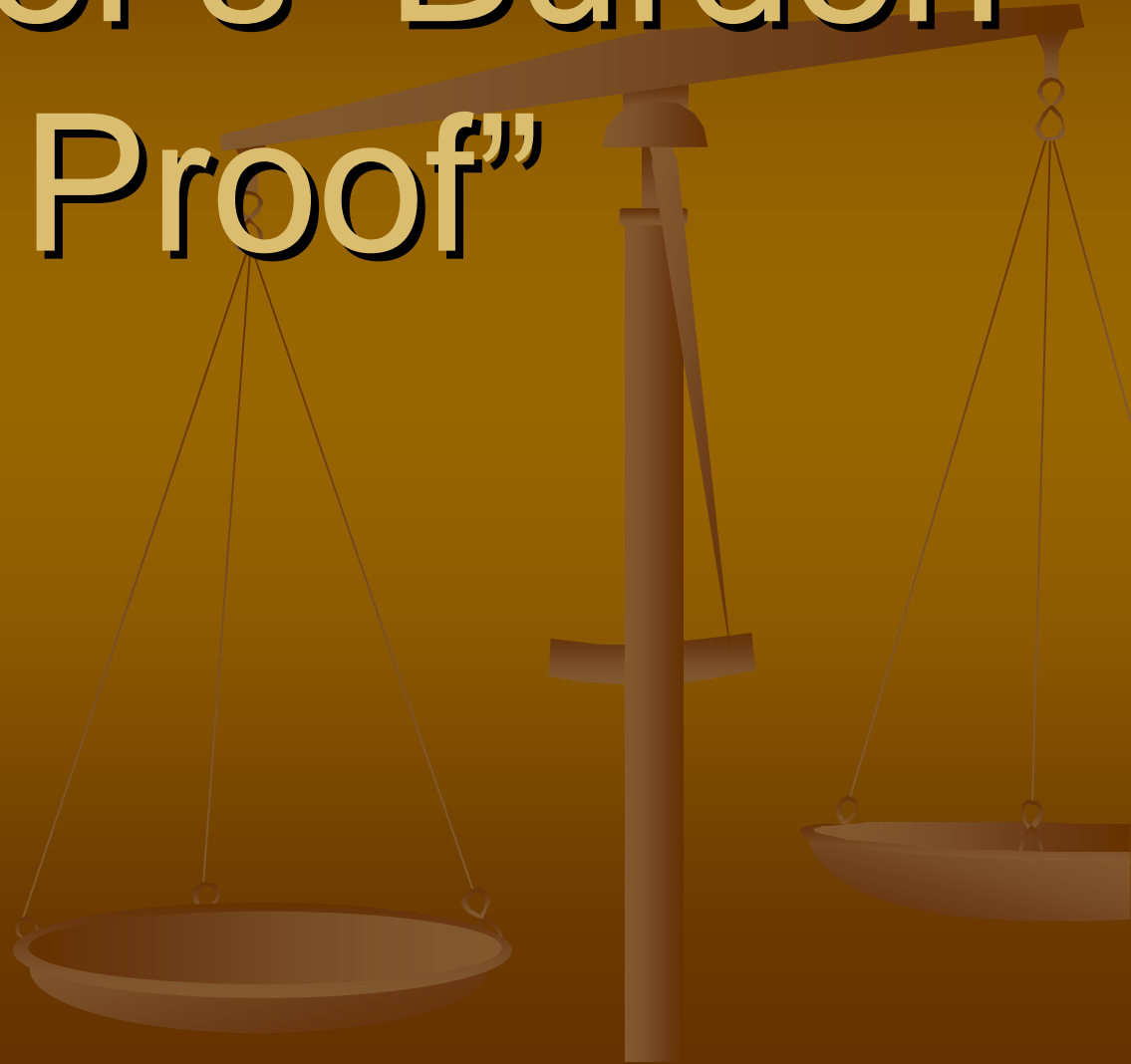
- “Appeal” for hearing must be in writing, signed, and **RECEIVED** by UIA within 30 days of mailing of “Redetermination”
- “Appeal” should be specific about what the party disagrees with, and why







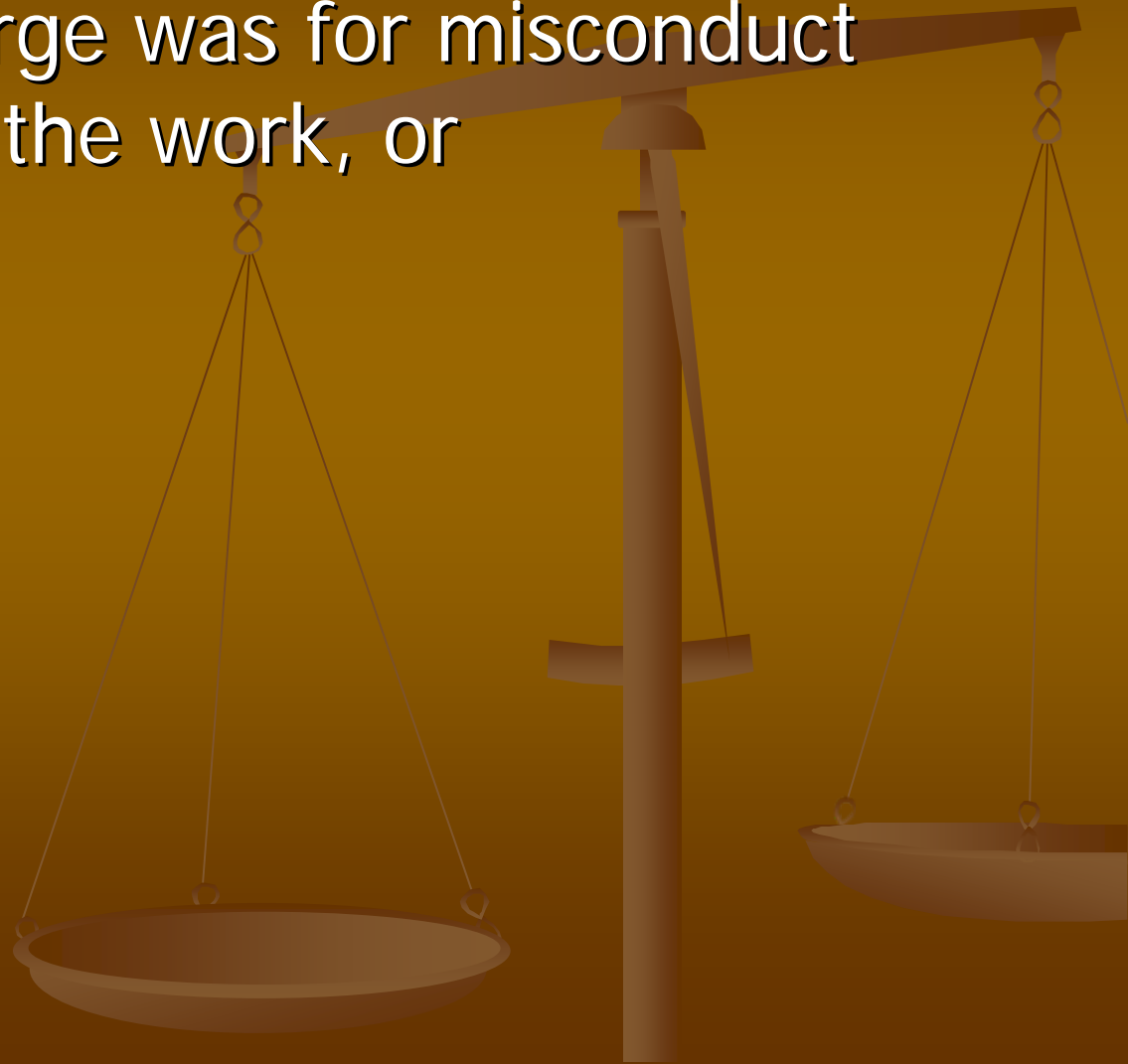
# Employer's "Burden of Proof"





# BURDEN OF PROOF for the Employer

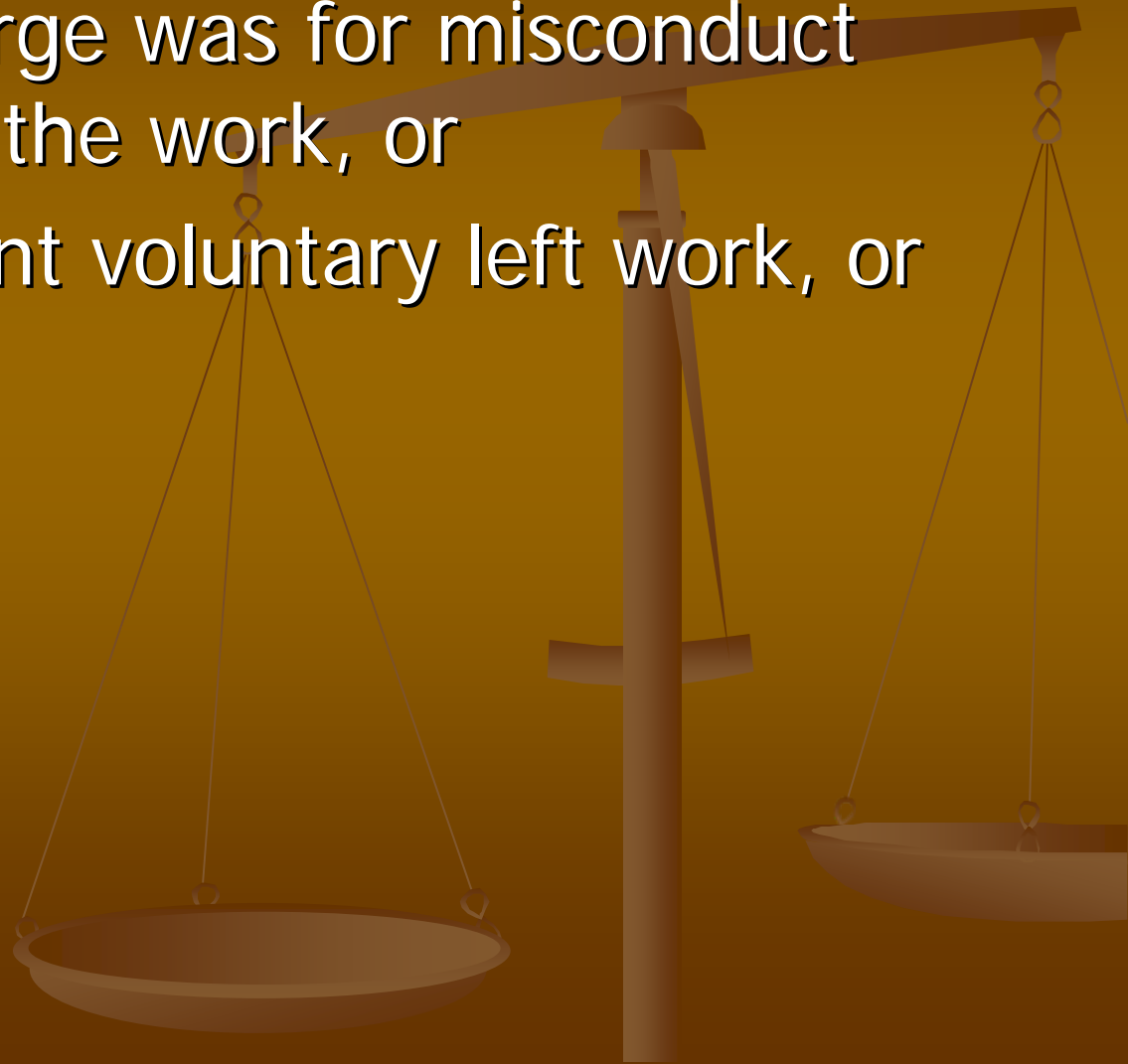
- That the discharge was for misconduct connected with the work, or





# BURDEN OF PROOF for the Employer

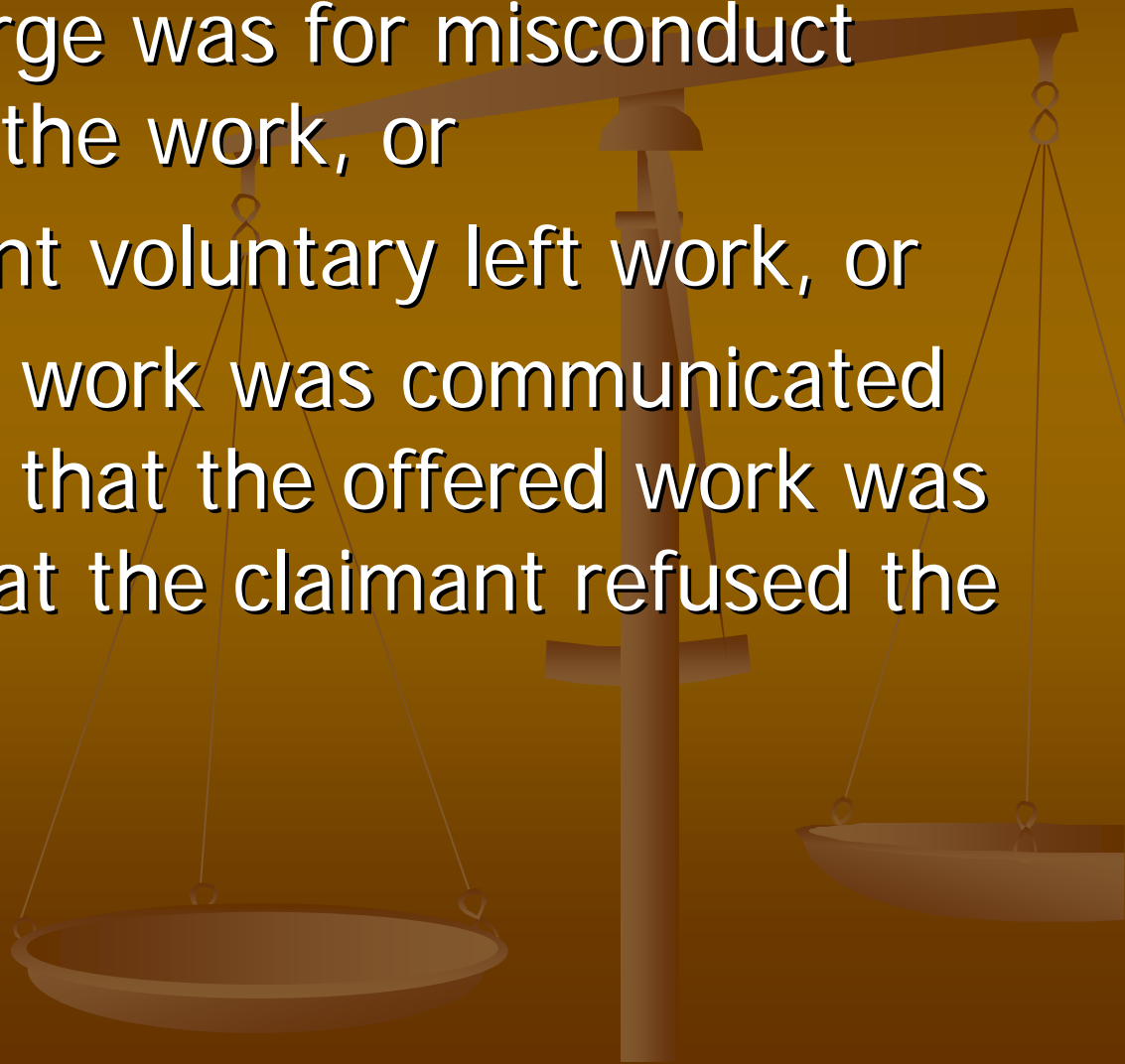
- That the discharge was for misconduct connected with the work, or
- That the claimant voluntarily left work, or





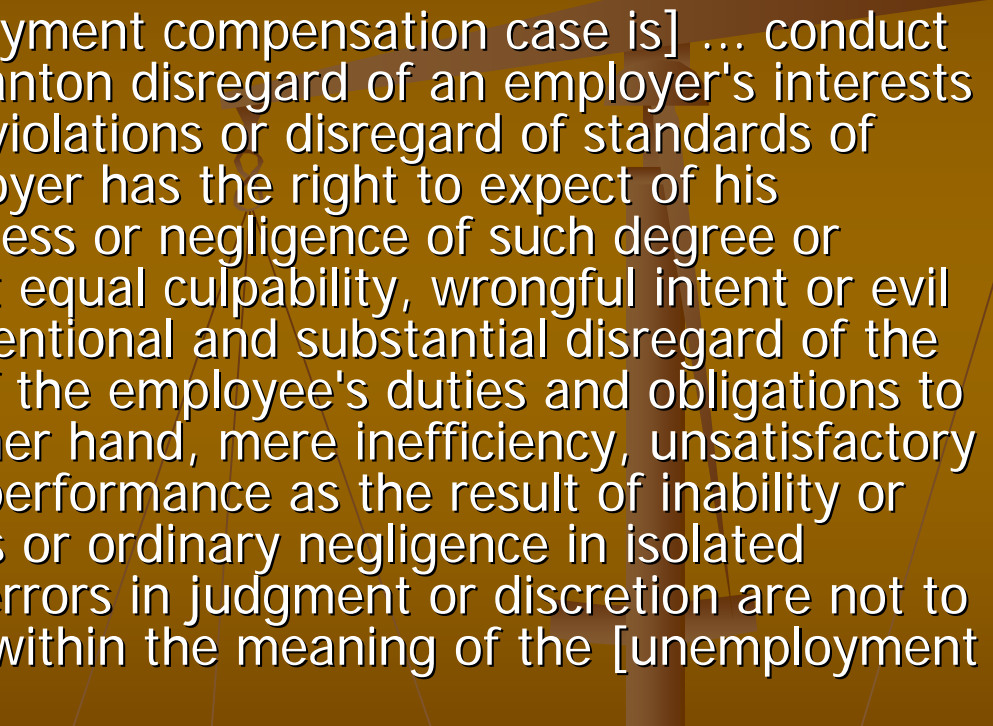
# BURDEN OF PROOF for the Employer

- That the discharge was for misconduct connected with the work, or
- That the claimant voluntarily left work, or
- That an offer of work was communicated to the claimant, that the offered work was suitable, and that the claimant refused the offer.





# BURDEN OF PROOF in a Discharge Case:

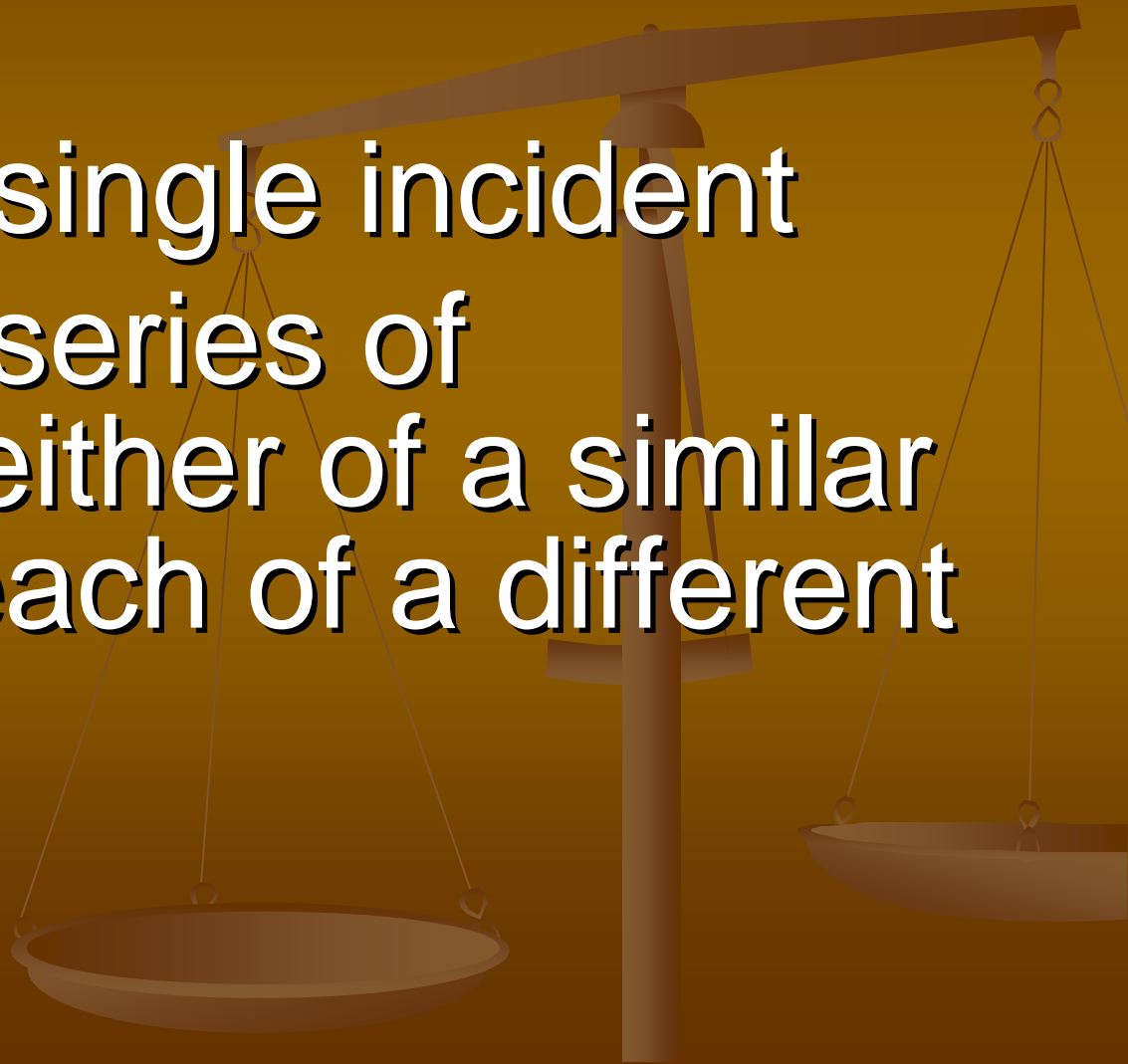


"[Misconduct in an unemployment compensation case is] ... conduct evincing such wilful or wanton disregard of an employer's interests as is found in deliberate violations or disregard of standards of behavior which the employer has the right to expect of his employee, or in carelessness or negligence of such degree or recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to his employer. On the other hand, mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good-faith errors in judgment or discretion are not to be deemed 'misconduct' within the meaning of the [unemployment compensation] statute."



# BURDEN OF PROOF in a Discharge Case

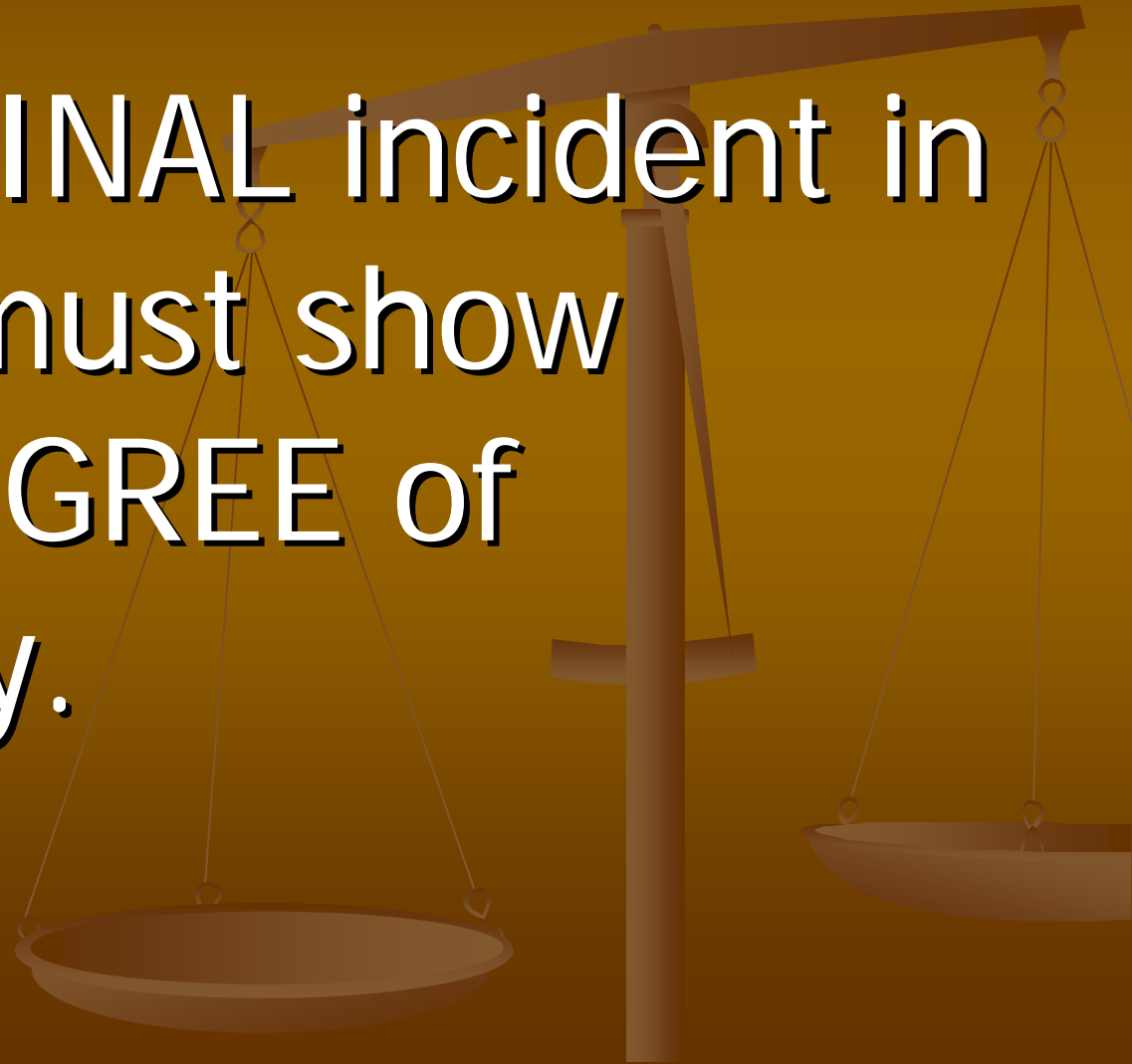
- May be a single incident
- May be a series of incidents, either of a similar nature or each of a different nature.





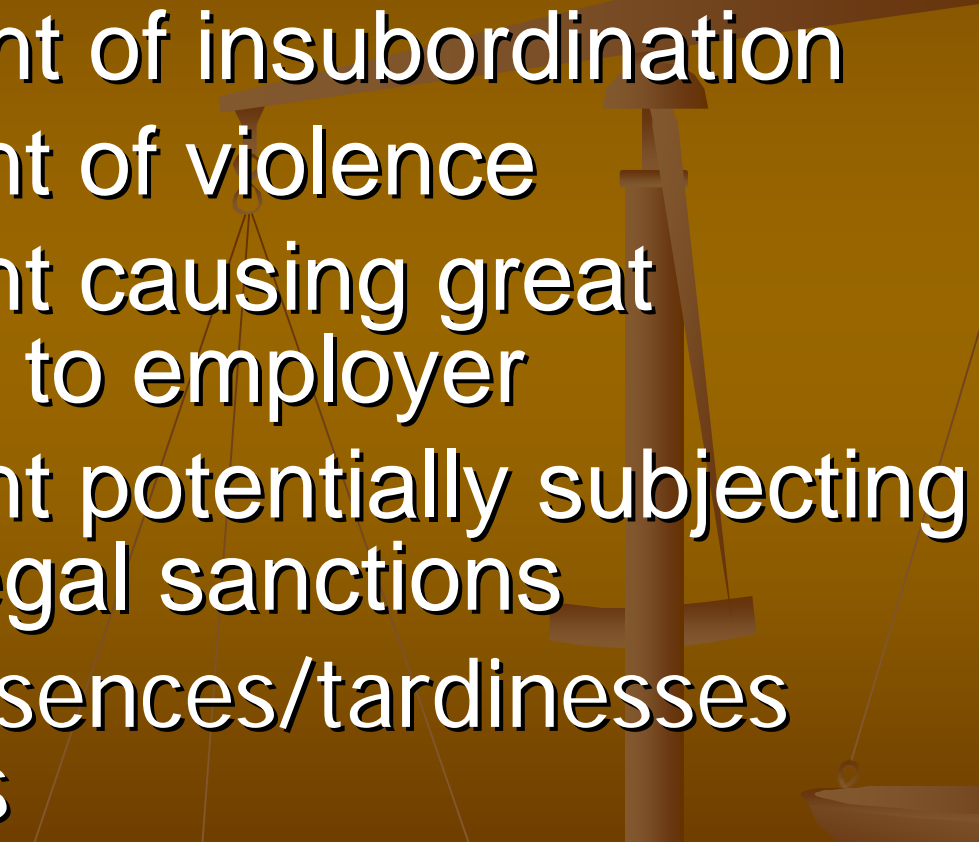
# BURDEN OF PROOF in a Discharge Case

But the FINAL incident in  
a series must show  
SOME DEGREE of  
culpability.





# EXAMPLES OF DISQUALIFYING DISCHARGE

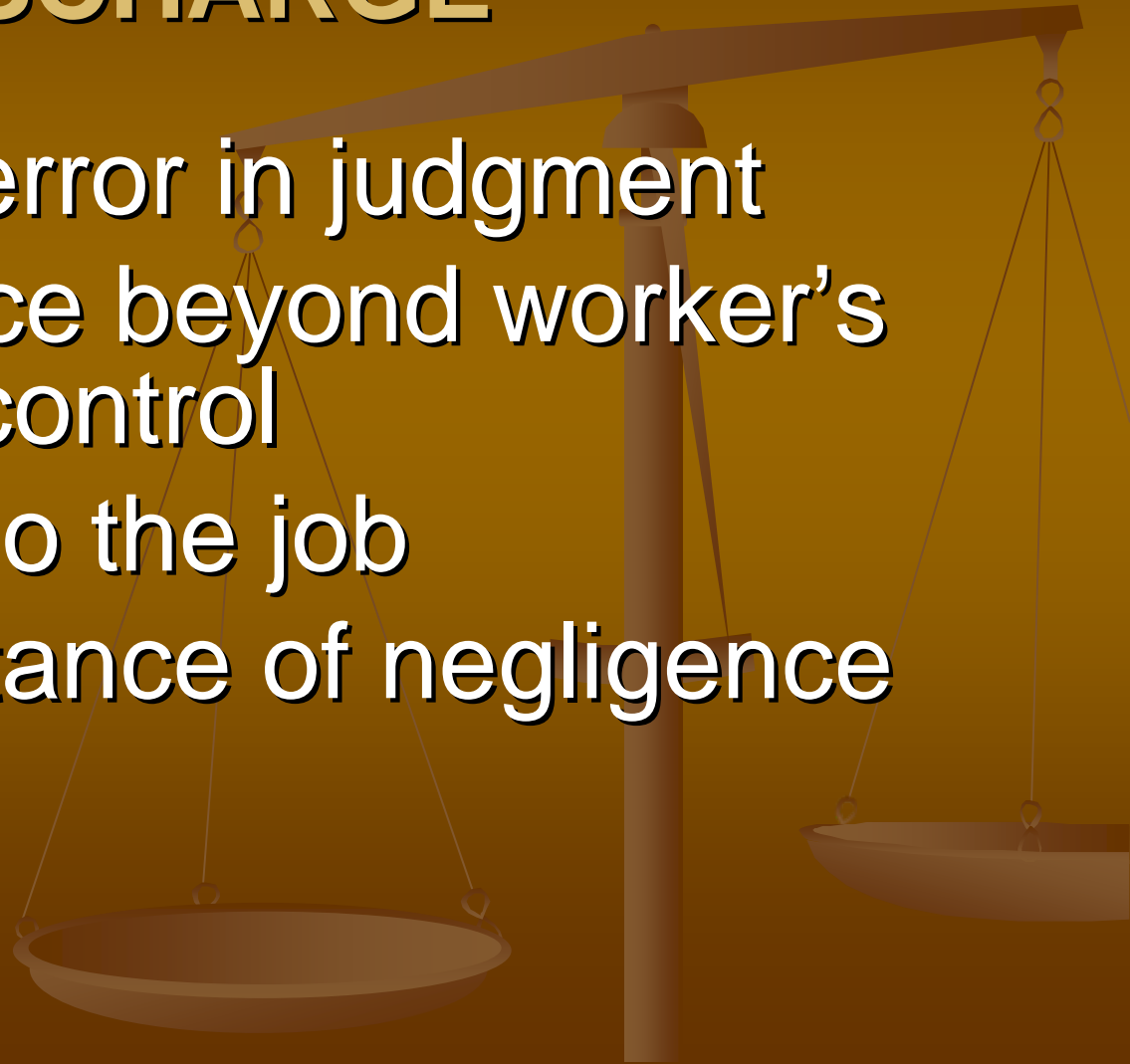
- 
- Single incident of insubordination
  - Single incident of violence
  - Single incident causing great financial harm to employer
  - Single incident potentially subjecting employer to legal sanctions
  - Continued absences/tardinesses after warnings





# EXAMPLES OF NON-DISQUALIFYING DISCHARGE

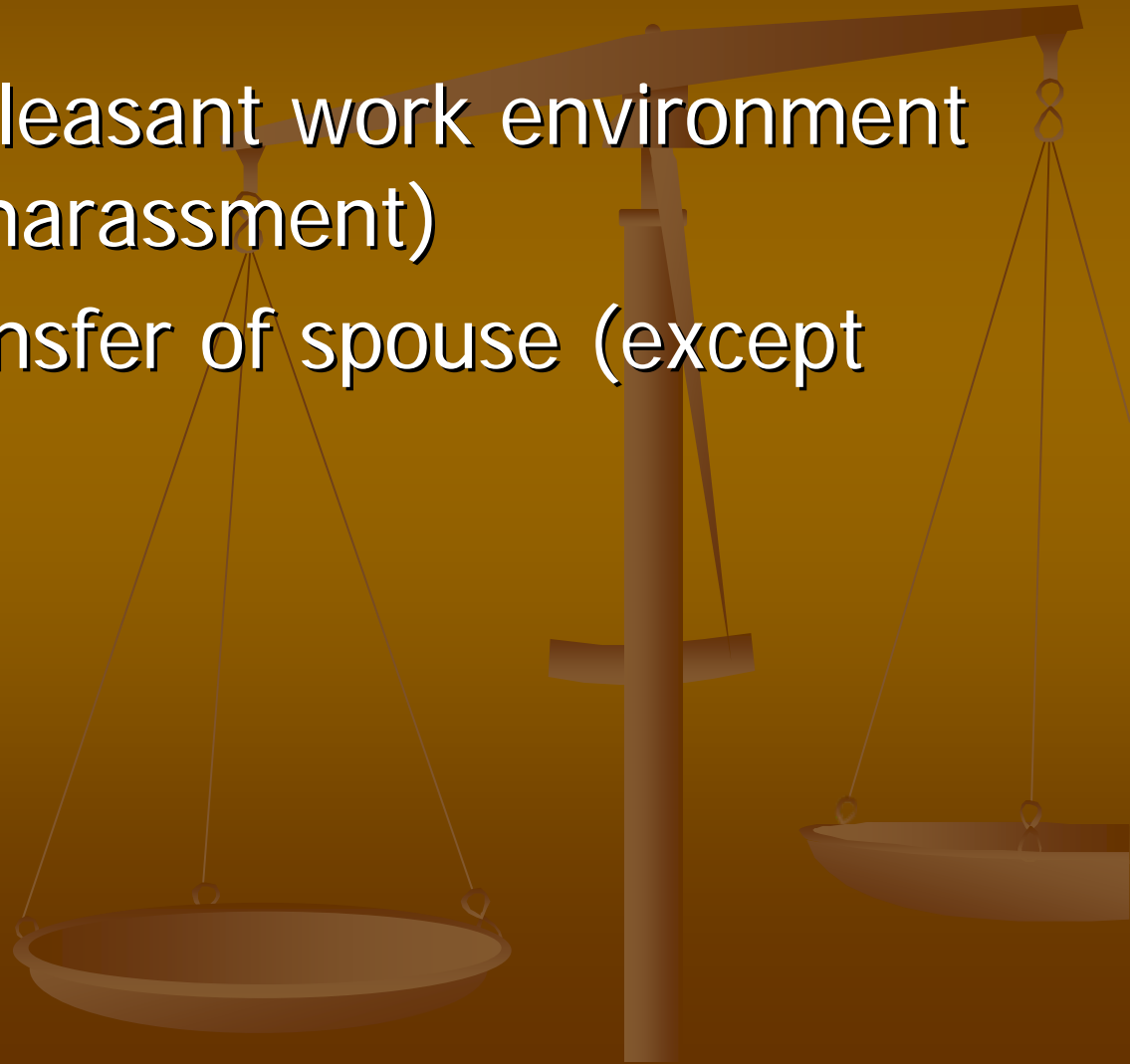
- Good-faith error in judgment
- Circumstance beyond worker's reasonable control
- Inability to do the job
- Isolated instance of negligence





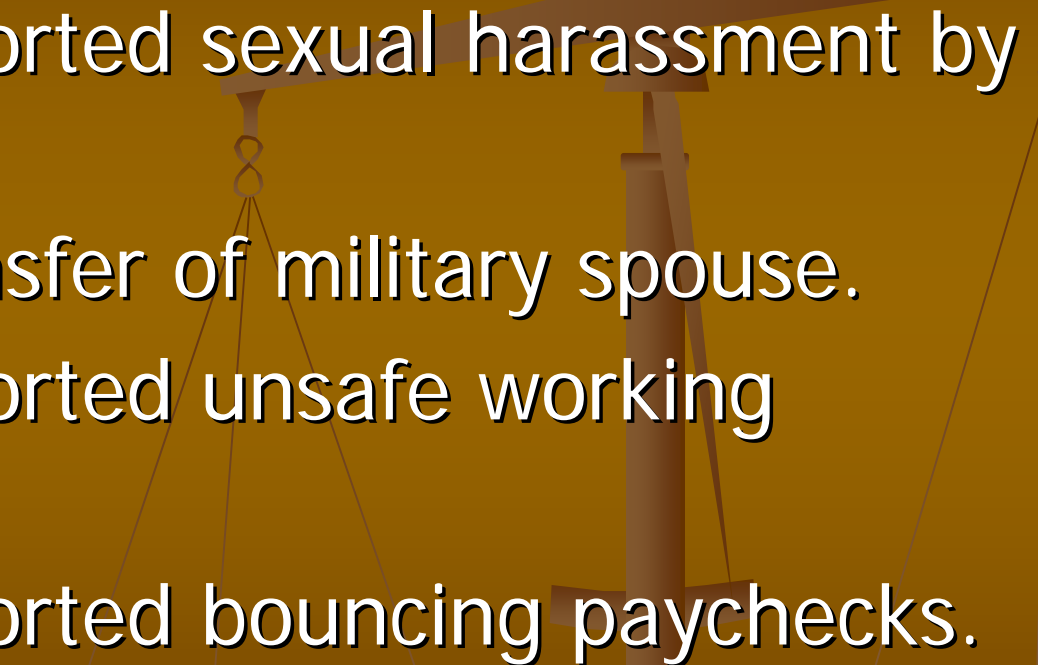
# EXAMPLES OF DISQUALIFYING QUIT

- Quit due to unpleasant work environment (except sexual harassment)
- Quit due to transfer of spouse (except military spouse)





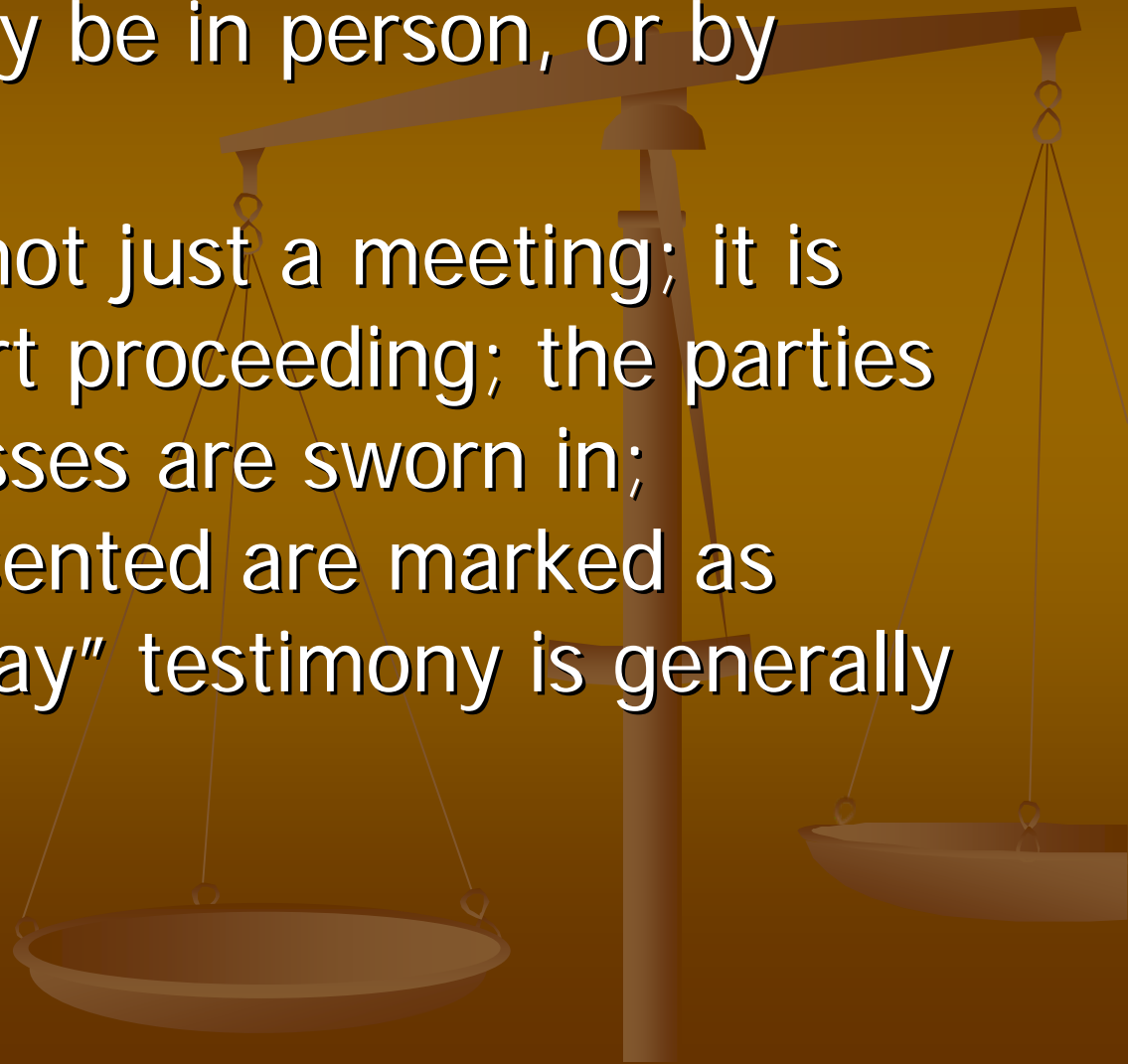
# EXAMPLES OF NON-DISQUALIFYING QUIT

- 
- Quit due to reported sexual harassment by co-workers.
  - Quit due to transfer of military spouse.
  - Quit due to reported unsafe working conditions.
  - Quit due to reported bouncing paychecks.



# Hearing before Administrative Law Judge (ALJ)

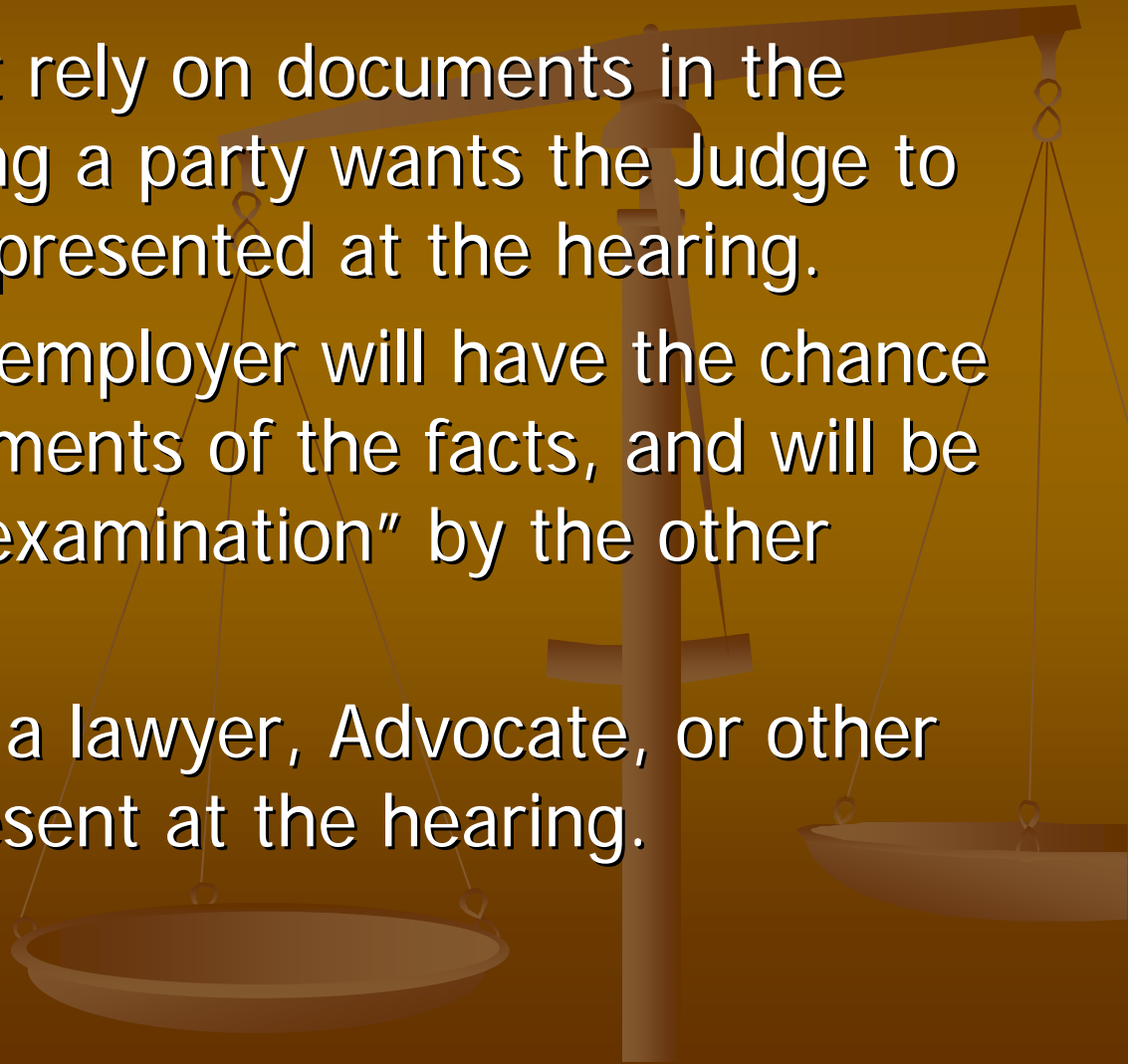
- The hearing may be in person, or by telephone.
- The hearing is not just a meeting; it is similar to a court proceeding; the parties and their witnesses are sworn in; documents presented are marked as exhibits; “hearsay” testimony is generally not permitted.





# Hearing before Administrative Law Judge (ALJ)

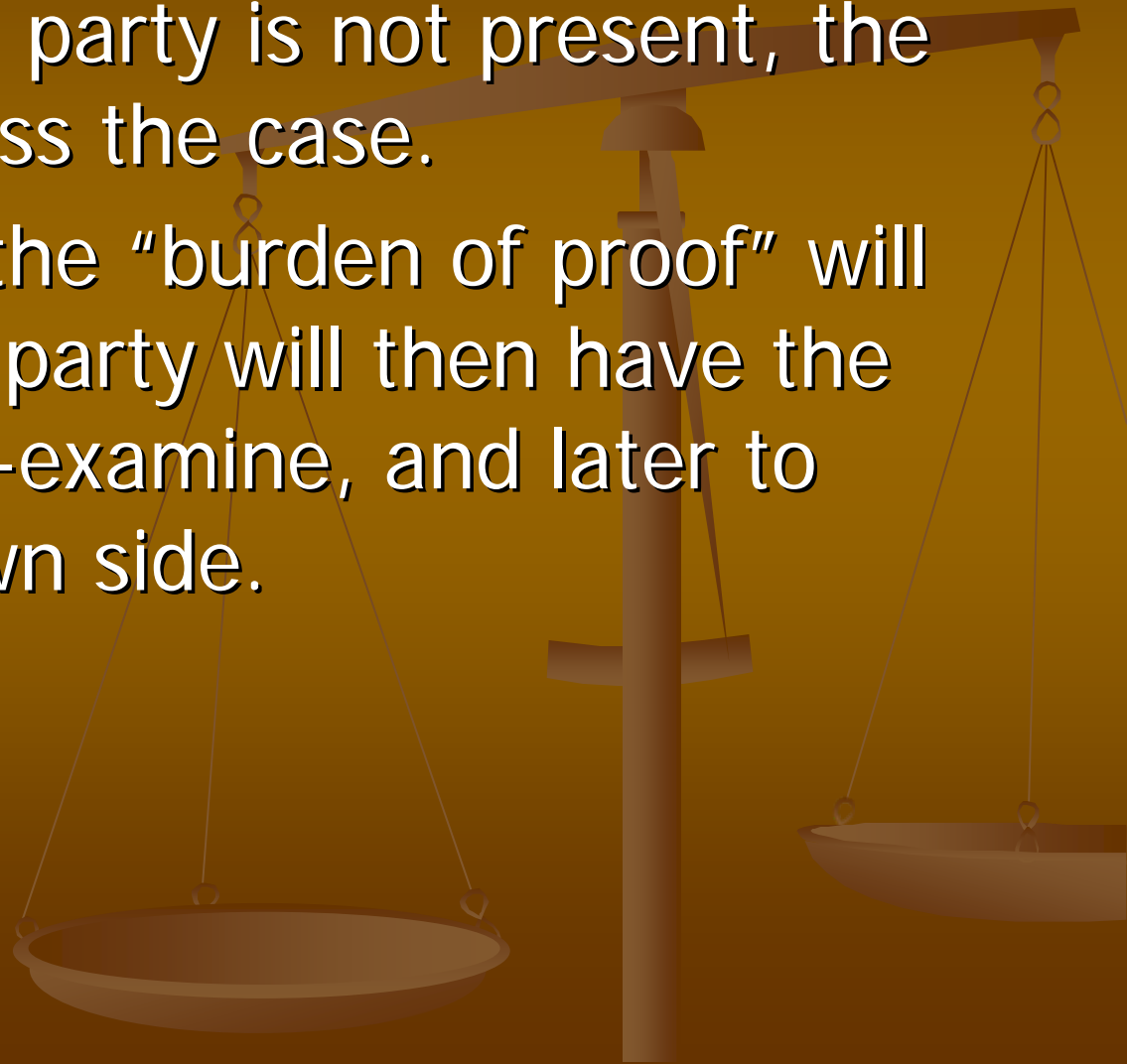
- The Judge will not rely on documents in the UIA's file. Anything a party wants the Judge to consider must be presented at the hearing.
- The claimant and employer will have the chance to give their statements of the facts, and will be subject to "cross-examination" by the other party.
- A party may have a lawyer, Advocate, or other representative present at the hearing.





# Hearing before Administrative Law Judge (ALJ)

- If the appealing party is not present, the Judge will dismiss the case.
- The party with the “burden of proof” will start; the other party will then have the chance to cross-examine, and later to present their own side.





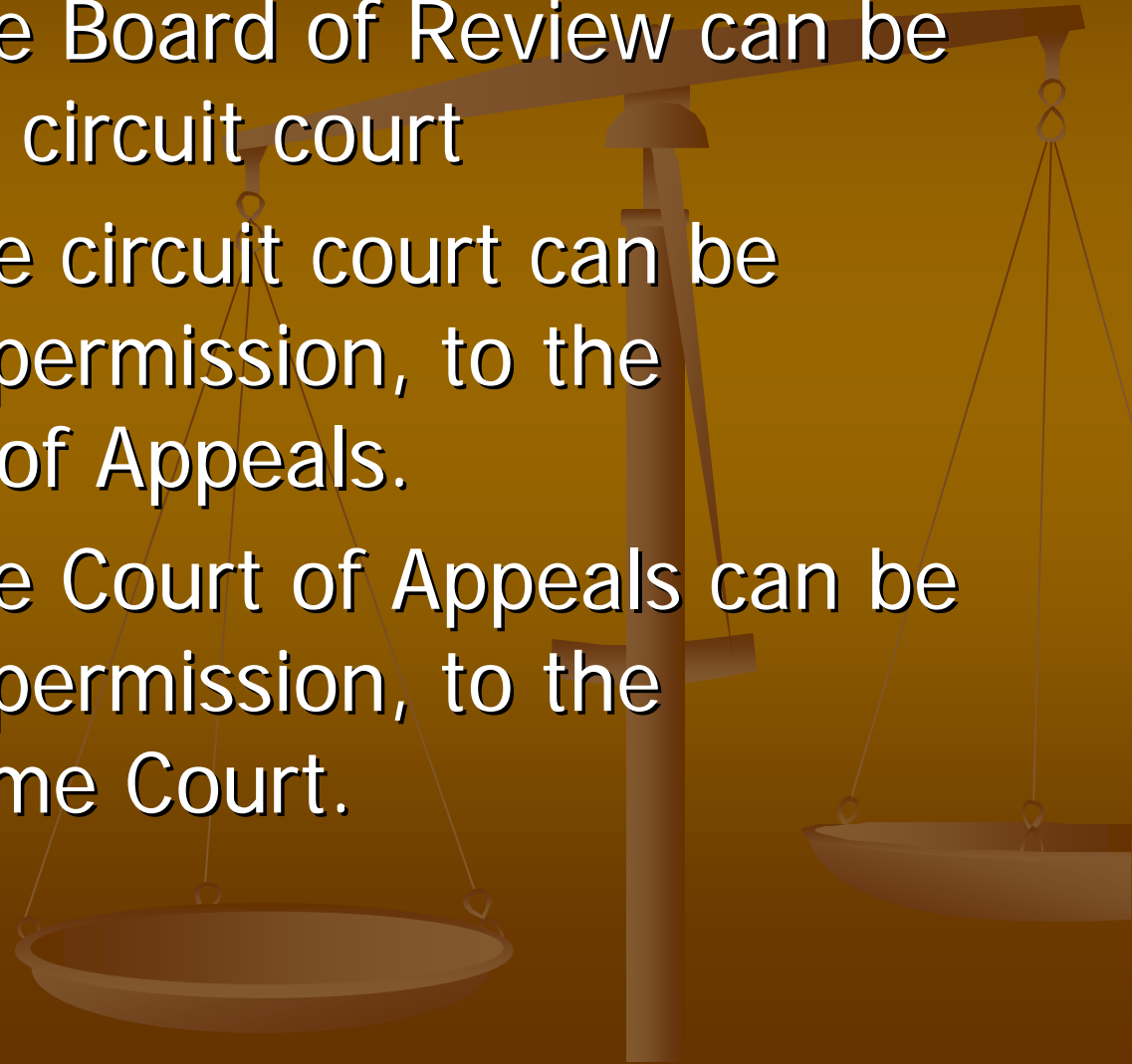
# Appeal to Michigan Employment Security Board of Review

- A party can request “rehearing” of the case before the Judge, or can appeal the Judge’s decision to the Michigan Employment Security Board of Review
- The “rehearing request” or the “appeal” to the Board must be in writing, signed, and **RECEIVED** by the UIA or the Board within 30 days of the date the ALJ’s decision was mailed.



# Appeal to Circuit Court and Beyond

- A decision of the Board of Review can be appealed to the circuit court
- A decision of the circuit court can be appealed, with permission, to the Michigan Court of Appeals.
- A decision of the Court of Appeals can be appealed, with permission, to the Michigan Supreme Court.







**For more information:**

Visit the Unemployment Insurance  
Agency's website at:





**For more information:**

Visit the Unemployment Insurance  
Agency's website at:

[www.michigan.gov/uia](http://www.michigan.gov/uia)





# For more information:

Visit the Unemployment Insurance  
Agency's website at:

[www.michigan.gov/uia](http://www.michigan.gov/uia)

Click on "Publications" at the left



A faint, stylized background image of a pair of scales of justice, with a vertical pillar and two pans hanging from a horizontal beam.

# For more information:

Visit the Unemployment Insurance  
Agency's website at:

[www.michigan.gov/uia](http://www.michigan.gov/uia)

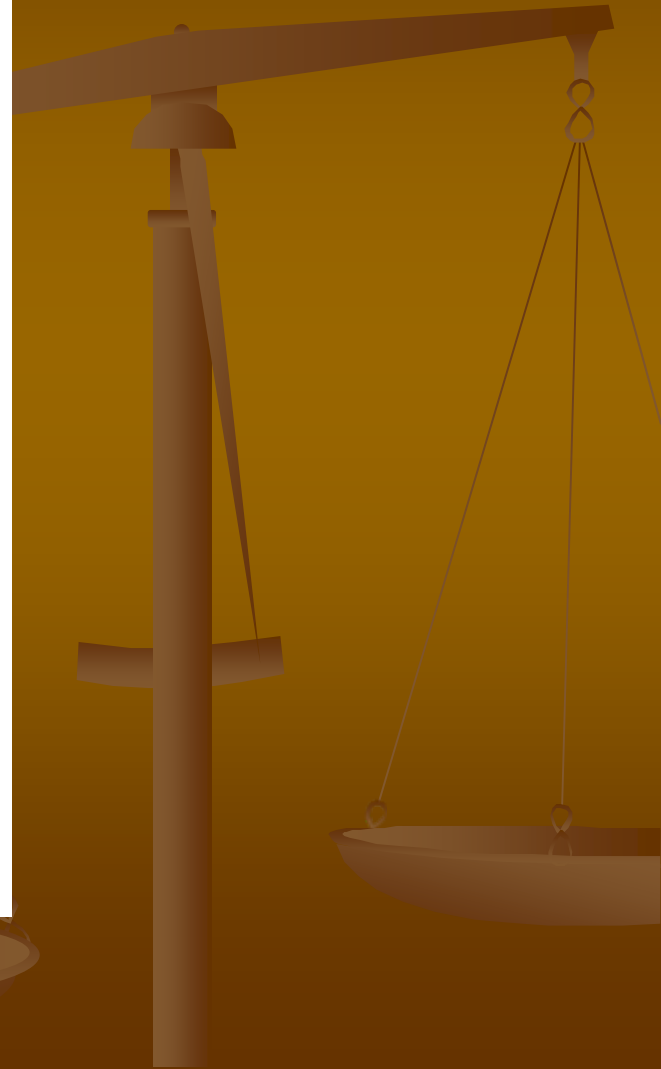
Click on "Publications" at the left

Scroll down to "UIA Publications" and click  
on UIA 1800, Guide to UC Office of  
Appeals Hearings



# For more information:

*A Guide To*  
*Unemployment Insurance  
Appeals Hearings*





For more help preparing for the  
hearing:





**For questions about Advocacy :**

**Call the Employer Customer  
Relations Hotline at**

**1-800-638-3994**

**and choose menu item 2**

